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REMARKS

Claims 1-21 and 23-26 are pending. Claims 1, 14 and 25 are independent.

Applicant thanks the Examiner for the indication that the previous arguments as to the "querying the user and upon selecting the audio source or channel" were persuasive, and for the non-finality of the current Action.

Section 102(e) and 103(a) rejections

Claims 1-7, 11, 14 and 25 were rejected under 35 USC 102(e) as being anticipated by US Patent Publication 2003/0091204 A1 (Gibson et al.) in view of US Patent 6,009,181 (Kim).

Dependent Claims 8-10 were rejected under 35 USC 103(a) as being unpatentable over Gibson in view of US patent Publication 2002/0057809A1 (Heyl).

Dependent Claims 12-13, 23-24 and 26 were rejected under 35 USC 103(a) as being unpatentable over Gibson in view of Official Notice.

Dependent Claims 16-21 were rejected as being unpatentable over Gibson in view of Heyl.

Dependent Claim 15 was rejected as being unpatentable over Gibson in view of Official Notice.

In view of the following discussion, each of the rejections is respectfully traversed and reconsideration is requested.

Independent Claim 1, is directed to a method for processing audio from one or more sources including, providing an adjustable audio setting for each of the one or more sources that can be set by a user and controlling an audio signal of a selected source in accordance with an established adjustable setting set by the user before sending the selected source to one or more speakers.

Independent Claim 25 is directed to a computer readable media having encoded thereon programming instructions causing a processor to perform the same steps as those recited in independent Claim 1.

The previous Office Action took the position that Gibson discloses the step of providing an adjustable audio setting, but "fails to disclose *controlling an audio signal of a selected source in accordance with an established adjustable setting set by the user before sending the selected source to one or more speakers*". The current Office Action relies solely on Gibson to reject each of independent Claims 1 and 25, and specifically directs Applicant first to "**fig. 2 wt (520**" for support of such alleged teaching – Applicants do not understand the meaning of "fig. 2 wt (520" – accordingly, clarification as to the meaning of this indication is requested.

The Action further directs Applicant to "page 3 par [0039-0040]; page 1 para [0009]/controlling with processor". Applicants respectfully submit that Gibson, and the particular paragraphs to which the Examiner directs Applicants, fail to teach or even to suggest "controlling an audio signal of a selected source in accordance with an established adjustable setting set by the user before sending the selected source to one or more speakers".

Paragraphs [0039]-[0040] of Gibson simply recite:

> [0039] The DSP unit 54 transforms each digitized sound signal into a visual image, which is then processed by CPU 52 and displayed on video display monitor 58. The displayed visual images may be adjusted by the user via user control 60.
> [0040] The preferred DSP unit 54 is the DSP 3210 chip made by AT&T. The preferred CPU 52 is an Apple Power Macintosh having at least 16 Mb of memory and running the Apple Operating System 8.0. A standard automation or MIDI interface 55 is used to adapt the ports of the microcomputer system 50 to send and receive mix information from the mixing console 10. Opcode Music System by Opcode Systems, Inc., is preferably used to provide custom patching options by menu.

Gibson only recites that "the displayed *visual images* may be adjusted by the user" – this does not teach or suggest Applicant's recited, "controlling an audio signal of a selected source in accordance with an established adjustable setting set by the user before sending the selected source to one or more speakers".

Again, as explained in Applicants' specification as filed, by using a "common audio processor to process multiple types of video and audio sources at once", including high definition television, digital television, analog cable television, digital cable television, satellite television, streaming audio, CD-writers, DVDs, digital radio, video games, and Internet radio to name only a few, *audio loudness levels vary widely*. Applicants therefore describe a method for processing audio from varying audio sources including providing an audio adjustment on a per source basis that *a user can adjust when setting up the receiver* (for example, a user can establish a relative gain setting from –4 dB to +4 db in 2 dB increments for the audio so that the audio is compensated in accordance with this setting before sending the audio to the speakers).

Gibson, is directed to a method of using 'visual images' to *mix sound*. In Gibson, "selected audio characteristics of the audio signal …are correlated to selected *visual characteristics*...[and] dynamic changes to any of these parameters…causes a corresponding change in the correlated parameter or audio effect". Gibson further recites that the system includes an "audio mixer having a plurality of channels each of which for receiving one of a plurality of audio signals, and for varying audio characteristics of the received audio signal".

For at least the foregoing reasons, Applicants respectfully submit that each of independent Claims 1 and 25, is patentable over the combined teachings of Gibson and reconsideration is requested. Claims 2-13 depend from Claim 1, and Claim 26 depends from Claim 25. These claims are believed to be clearly patentable for all of the reasons indicated above with respect to Claims 1 and 25, one or the other from which they depend, and even further distinguish over Gibson by reciting additional limitations.

For example, dependent Claim 11 recites "querying the user upon the user selecting a source or a channel of a source for which no adjustable setting has been entered as to whether the user wishes to enter an adjustable setting for the selected source or channel". The *previous* Office Action acknowledged that both Gibson and Kim "fail to teach" the limitation recited in Claim 11, but took the position that Nishigaki "disclose a network system in which the step recited in Claim 11, is shown "for the purpose of effectively utilizing communication bandwidth".

In response to Applicant's previous arguments as to Claim 11, and specifically as to Nishigaki, the current Action now directs Applicant to "fig. 3; par [0043]" of Gibson as allegedly providing such teaching. Again Applicants submit that Gibson, at most, teaches that "visual images may be manipulated and/or modified by the user in step 110. This teaching, of a manipulation of visual images, does not teach or suggest the step recited in Claim 11, of *querying the user upon the user selecting a source* for which no adjustable setting has been entered as to *whether the user wishes to enter an adjustable audio setting* for the selected source or channel.

For at least this reason, dependent Claim 11 is believed to be patentable over Gibson, and reconsideration is respectfully requested.

Finally, independent Claim 14 is directed to an apparatus for processing audio from one or more sources including (1) a user interface via which a user can select an adjustable setting for an audio signal from each of the one or more sources and (2) an audio processor receiving an audio signal from a selected one of the one or more sources, adjusting a response of the audio signal from the selected one of the one or more sources in accordance with the user selected adjustable setting and sending the adjusted audio signal to be output over one or more speakers. Claim 14 further recites that the user interface *queries the user upon the user selecting a source* or a channel of a source for which no audio adjustment has been entered as to whether the user wishes to *enter an audio adjustment* for the selected source or channel.

The arguments presented above with regard to dependent Claim 11 are applicable to independent Claim 14 as well, and reconsideration of the patentability of Claim 14 is requested on the same grounds.

Dependent Claims 15-21 and 23-24 are believed to be clearly patentable for the reason indicated above with respect to Claim 14, from which they depend, and even further define over Gibson, Kim and Heyl, by reciting additional distinguishing limitations.

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It is respectfully submitted that in regard to the above amendment and remarks that the pending application is patentable over the art of record and prompt review and issuance is accordingly requested. Should the Examiner be of the view that an interview would expedite consideration of this Amendment or of the application at large, request is made that the Examiner telephone the Applicants' undersigned attorney at (908) 518-7700 in order that any outstanding issues be resolved.

Respectfully submitted,

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